

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

1

The Minutes

October 11, 2004

There were no minutes for this date.

October 12, 2004

- C042456 THE PEOPLE v. SONG (Certified for Partial Publication)**
The convictions for kidnapping and the "one strike" kidnapping allegation are reversed. The matter is remanded for resentencing.
MORRISON, Acting P.J.
We concur: Hull, J.
Butz, J.
- C044401 THE PEOPLE v. WALLACE (Not for Publication)**
The judgment is affirmed.
NICHOLSON, J.
We concur: Sims, Acting P.J.
Robie, J.
- C045988 THE PEOPLE v. BLOCK (Not for Publication)**
The judgment is affirmed.
BUTZ, J.
We concur: Sims, Acting P.J.
Hull, J.
- C042184 TESCO CONTROLS, INC. v. MONTEREY MECHANICAL COMPANY and
FIREMAN'S FUND INSURANCE COMPANY et al. (Certified for Publication)**
The judgment against Monterey and the City on Tesco's fifth cause of action, and against Monterey and Fireman's Fund on Tesco's sixth cause of action, is reversed. The judgment as to Tesco's eighth cause of action against Monterey is reversed and remanded to the trial court with directions to enter judgment in accordance with this opinion. In all other respects, the judgment is affirmed.
The parties shall bear their own costs on appeal. (Cal. Rules of Court, rule 27 (a) (3).) (Certified for Publication.)
NICHOLSON, J.
We concur: Sims, Acting P.J.
Davis, J.
- C044468 PACHECO v. KING et al. (Not for Publication)**
The judgment is affirmed.
BLEASE, J.
We concur: Scotland, P.J.
Sims, J.

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

2

The Minutes

October 12, 2004

C044570 NORTH TAHOE MARINA, INC. v. HAWLEY

(Not for Publication)

The judgment is reversed and case is remanded for the trial court to exercise its discretion according to the principles outlined in this opinion. Defendant shall recover costs on appeal.

RAYE, J.

We concur: Nicholson, Acting P.J.
 Morrison, J.

C045978 In re DEJA S.; SHASTA COUNTY DEPARTMENT OF SOCIAL SERVICES v. LATOYA R.

(Not for Publication)

The orders of the juvenile court are affirmed.

DAVIS, J.

We concur: Sims, Acting P.J.
 Raye, J.

C046099 In re V.C.; THE PEOPLE v. V.C.

(Not for Publication)

The judgment is affirmed.

Raye, J.

We concur: Sims, Acting P.J.
 Butz, J.

October 13, 2004

C043920 THE PEOPLE v. FENNEN

(Not for Publication)

The trial court is directed to correct the minute order for the sentencing hearing to show that the trial court imposed then suspended the parole revocation fine (Pen. Code, § 1202.45), and to forward a corrected abstract of judgment to the Department of Corrections. The judgment is affirmed.

NICHOLSON, J.

I concur: Sims, Acting P.J.
I concur in the result as to part II of the Discussion:
 Hull, J.

C045005 THE PEOPLE v. GOLDTHREAD

(Not for Publication)

The judgment is affirmed.

SCOTLAND, P.J.

We concur: Davis, J.
 Nicholson, J.

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

3

The Minutes

October 13, 2004, continued

- C045157 THE PEOPLE v. THIESSEN (Not for Publication)**
The judgment is affirmed.
RAYE, J.
We concur: Sims, Acting P.J.
 Butz, J.
- C045968 THE PEOPLE v. FARNHAM (Not for Publication)**
The judgment is affirmed.
SCOTLAND, P.J.
We concur: Sims, J.
 Butz, J.
- C046474 THE PEOPLE v. SHARRETT (Not for Publication)**
The judgment is modified... As modified, the judgment is affirmed. The trial court is directed to prepare an amended abstract of judgment reflecting this modification and indicating that conduct credits were awarded pursuant to Penal Code section 4019 and to forward a certified copy of said amended abstract to the Department of Corrections.
Raye, J.
We concur: Sims, Acting P.J.
 Butz, J.
- C045965 In re DILLON S. et al.; SACRAMENTO COUNTY DEPARTMENT OF
HEALTH AND HUMAN SERVICES v. KIMBERLY P. (Not for Publication)**
The orders of the juvenile court are affirmed.
SIMS, Acting P.J.
We concur: Davis, J.
 Raye, J.
- C046411 In re L.F.; SHASTA COUNTY DEPARTMENT OF SOCIAL SERVICES v.
TRINA F. (Not for Publication)**
The order terminating appellant's parental rights is affirmed.
SIMS, Acting P.J.
We concur: Davis, J.
 Raye, J.

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

4

The Minutes

October 14, 2004

C042024 THE PEOPLE v. LARSON (Not for Publication)

The judgment is affirmed. The trial court is directed to amend the abstract of judgment to reflect that defendant was convicted of an attempt to make a terrorist threat, not of making a terrorist threat. The trial court is also directed to amend the abstract of judgment to reflect that the terms imposed for counts 5 and 6 are the middle term, not the low term. The trial court is directed to sent the amended abstract to the Department of Corrections.

NICHOLSON, J.

We concur: Davis, Acting P.J.
 Robie, J.

C042595 THE PEOPLE v. SAECHAO (Not for Publication)

The trial court is directed to amend the abstract of judgment of defendant Soukovang Saechao, to correct the spelling of his name. The trial court shall forward a certified copy of the amended abstract of judgment to the Department of Corrections. The judgments against each of the defendants are affirmed.

NICHOLSON, Acting P.J.

I concur: Butz, J.

I concur except as to part V, in which the majority holds that the defendant's right to a jury trial on aggravating factors as provided by *Blakely V. Washington* (2004) 542 U.S. ___, ___ [159 L. Ed. 2d 403, 413-414] (*Blakely*), is forfeited by a failure to object. As to part V, I concur in the result...

Morrison, J.

C043831 THE PEOPLE v. MATHIS (Not for Publication)

The judgment is affirmed.

SIMS, Acting P.J.

We concur: Raye, J.
 Butz, J.

C044761 THE PEOPLE v. WHITE (Not for Publication)

The judgment is reversed.

SIMS, Acting P.J.

We concur: Raye, J.
 Butz, J.

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

5

The Minutes

October 14, 2004, continued

C045605 THE PEOPLE v. HAVEMANN (Not for Publication)

The order granting probation is reversed and the cause is remanded to the trial court. On remand, the trial court will decide whether to place defendant on probation for three years or four years. If the trial court chooses to place defendant on probation for three years, then the court shall modify the order granting probation accordingly and reinstate the order as modified. If the trial court chooses to place defendant on probation for four years, then defendant shall be entitled to withdraw his no contest plea. If he chooses not to do so, then the trial court shall reinstate the order granting probation without modification. If defendant chooses to withdraw his plea, then the trial court shall proceed according to the law.

ROBIE, J.

We concur: Davis, Acting P.J.
 Morrison, J.

C043508 PACHECO v. PRISON INDUSTRY AUTHORITY et al. (Not for Publication)

The judgment is affirmed.

BLEASE, Acting P.J.

We concur: Davis, J.
 Robie, J.

**C045849 ABRAMS v. WALDREP et al.
C046335 ABRAMS v. BILLY (Not for Publication)**

The judgments are affirmed. Defendants shall recover their costs on appeal. (Cal. Rules of Court, rule 27 (a).)

ROBIE, J.

We concur: Blease, Acting P.J.
 Sims, J.

C045620 In re BRITNI C.; THE PEOPLE v. BRITNI C. (Not for Publication)

The appeal is dismissed.

SIMS, Acting P.J.

We concur: Hull, J.
 Butz, J.

**C041378 THE PEOPLE v. NICKSON
BY THE COURT:**

Appellant's petition for rehearing is denied.
SCOTLAND, P.J.

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

6

The Minutes

October 14, 2004, continued

C046505 THE PEOPLE v. LOPEZ

BY THE COURT:

Pursuant to the written request of the appellant, the appeal filed March 23, 2004, is dismissed. It is further ordered that the remittitur issue forthwith. (See Cal. Rules of Court, rule 30.3.)

SCOTLAND, P.J.

**C044541 EL DORADO COUNTY TAXPAYERS FOR QUALITY GROWTH et al. v.
COUNTY OF EL DORADO et al. and COOL CAVE QUARRY, INC.
(Certified for Publication)**

THE COURT:

It is ordered that the opinion filed herein on September 14, 2004, be modified...

...The opinion in the above-entitled matter filed on September 14, 2004, was not certified for publication in the Official Reports. For good cause it now appears that the opinion should be published in the Official Reports and it is so ordered.

BY THE COURT:

SCOTLAND, P.J.

DAVIS, J.

NICHOLSON, J.

October 15, 2004

C042795 THE PEOPLE v. CLARK (Not for Publication)

The judgment is affirmed.

SIMS, J.

We concur: Scotland, P.J.

Blease, J.

C045953 THE PEOPLE v. SMITH (Not for Publication)

The judgment is affirmed.

NICHOLSON, J.

We concur: Blease, Acting P.J.

Hull, J.

C043349 FILBY v. KELLS et al. (Not for Publication)

The judgment is affirmed. Filby shall pay Kells's costs on appeal. (Cal. Rules of Court, rule 27 (a).)

MORRISON, J.

We concur: Blease, Acting P.J.

Robie, J.

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

7

The Minutes

October 15, 2004, continued

- C043572 GRAY et al. v. MARTINET et al. (Not for Publication)**
The judgment (order) is reversed. Appellant Martinet shall recover his costs on appeal.
BLEASE, Acting P.J.
We concur: Hull, J.
 Robie, J.
- C045463 JAMESON v. SCHWARZENEGGER et al. (Not for Publication)**
The judgment is affirmed. The parties shall bear their own costs on appeal. (Cal. Rules of Court, rule 27(a) (4).)
Robie, J.
We concur: Sims, Acting P.J.
 Nicholson, J.
- C046285 In re KENNETH M. et al.; SUTTER COUNTY HUMAN SERVICES AGENCY v. ANGEL J. (Certified for Partial Publication)**
The orders terminating appellant's parental rights and selecting adoption as the permanent plan for the minors are reversed, and the matter is remanded for the limited purpose of providing notice to all three Cherokee tribes, in compliance with Indian Child Welfare Act requirements as explained in the Guidelines for State Courts.
If, after proper notice, the Cherokee tribes either do not respond or determine that the minors are not Indian children with respect to the Cherokee tribes, the juvenile court shall reinstate the orders.
However, if any of the tribes determine the minors are Indian children with respect to the Cherokee tribes, the juvenile court shall hold a new dispositional hearing and a new Welfare and Institutions Code section 366.26 hearing in conformance with all provisions of the Indian Child Welfare Act.
SIMS, Acting P.J.
We concur: Raye, J.
 Butz, J.